



UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

MAR 3 2009

PROCUREMENT MEMORANDUM 2009-05

ACTION

MEMORANDUM FOR: BUREAU PROCUREMENT OFFICIALS
HEADS OF CONTRACTING OFFICES

FROM: Helen Hurcombe 
Senior Procurement Executive
And Director, Office of Acquisition Management

SUBJECT: Requirements of Section 801 of the National Defense
Authorization Act for Fiscal Year 2008

Purpose

The purpose of this procurement memorandum (PM) is to implement the requirements of Section 801 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008.

Background

Section 801 of NDAA for FY 2008 provides that an acquisition official of the Department of Defense (DoD) may place an order, make a purchase, or otherwise procure property or services for DoD in excess of the simplified acquisition threshold through a non-Defense agency, only if, in the case of a procurement by any non-Defense agency in any FY, the head of the non-Defense agency has certified that the non-Defense agency will comply with defense procurement requirements for the FY. As some parts of Department of Commerce (DOC) provide acquisition support to DoD, the required certification has been executed and submitted to DOD by the Head of the Contracting Activity.

Applicability

This guidance applies to all awards made against requisitions or other interagency transfer agreements received from DoD components that result in new contracts, purchase orders, delivery orders, task orders or call orders awarded on or after October 1, 2008.

Required Actions

1. Any DOC acquisition office executing any acquisition on behalf of DoD shall review the Interagency Agreement (IAA) to determine whether that IAA includes any DoD specific regulatory requirements applicable to the acquisition. If so, the Contracting Officer is responsible for ensuring that those requirements are complied with in their totality.

2. If the IAA does not identify any DoD specific regulatory requirements applicable to the acquisition and does not specifically indicate there are no such regulatory requirements, the Contracting Officer is responsible for:
 - a) During the acquisition planning phase and prior to release of any synopsis (if required) or any solicitation, contacting the identified DoD official executing the IAA to determine whether there are any DoD specific regulatory requirements applicable to the acquisition to be conducted on behalf of DoD; and
 - b) Documenting the contract file to reflect:
 1. the individual contacted;
 2. date and time of the contact; and
 3. the identification of DoD specific regulatory requirements applicable to the acquisition or that there are no DoD specific regulatory requirements applicable to the acquisition.
 - c) If a written acquisition plan is required, addressing the requirement for or the lack of DoD specific regulatory requirements in the acquisition plan.
 - d) Cooperating with the DOC Office of Inspector General (OIG) as the OIG executes their responsibility for overseeing acquisitions executed on behalf of DoD.
3. In the absence of DoD-specific regulatory requirements, the Contracting Officer must fully comply with the Federal Acquisition Regulation, the Commerce Acquisition Regulation, and DOC policy governing DOC acquisitions.

If you have any questions, please contact Lori Donovan at ldonovan@doc.gov or (202)482-1716.